

REMARKS

Receipt of the Office Action mailed May 21, 2003 is acknowledged. Claims 16-17 and 33-34 have been cancelled herein. Applicants reserve the right to pursue these claims, and other claims, in other applications. Claims 1-15, 18-32 and 35 are pending.

In response to the restriction requirement set forth in the Office Action mailed May 21, 2003, Applicants hereby provisionally elect Group I, now claims 1-15, for examination, with traverse. In response to the election of species requirement, Applicants provisionally elect (a) hypertension, heart failure, and myocardial infarction, for examination, with traverse. Claims 1-15, 18-32 and 35 read on the elected species.

The Examiner has required restriction between Claims 1-17 (Group I), drawn to "a method of transdermally administering enalaprilat and a carrier and a dermal composition comprising the same, classified in class 424, subclass 449", and Claims 18-35 (Group II), drawn to "a method for transdermally administering the lipophilic prodrug on ACE inhibitors; and a dermal composition comprising the same, classified in class 424, subclass 449." Since this restriction requirement is improper, Applicants respectfully request that the requirement be withdrawn.

While the Commissioner may require restriction if two or more independent and distinct inventions are claimed in one application (35 U.S.C. § 121), M.P.E.P. § 803 directs as follows (emphasis added): "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." In this application, the Examiner has indicated that claims 1-17 of Group I and claims 18-35 of Group II are both classified in the identical class and subclass, class 424, subclass 449.

There can be no serious burden to the Examiner in searching the claims of Group II together with the elected claims of Group I in the same class and subclass. The Examiner has admitted that the claims of Groups I and II are classified in the identical class and subclass. Thus, a search of the claims of Group I in class 424, subclass 449 will necessarily encompass a search of the claims of Group II in the same class and subclass.

With respect to the election of species requirement, Applicants have cancelled claims 16-17 and 33-34 herein. In view of this amendment, the election of species is moot and should be withdrawn.

In view of the foregoing, it is respectfully urged that claims 1-15, 18-32 and 35 should be examined together. An early notice of allowance is earnestly solicited.

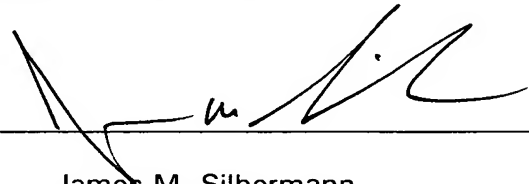
Should there be any questions, Examiner Ghali is courteously invited to contact the undersigned at the telephone number shown below.

Respectfully submitted,

Date July 21, 2003

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By

A handwritten signature in black ink, appearing to read 'James M. Silbermann', is written over a horizontal line.

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